

REMARKS

By this amendment, Applicants have amended claims 1, 3, 7-8, 16, and 21. As a result, claims 1-23 remain pending in this application. These amendments are being made to facilitate early allowance of the presently claimed subject matter. Applicants do not acquiesce in the correctness of the objections and rejections and reserve the right to pursue the full scope of the subject matter of the original claims, or claims that are potentially broader in scope, in the current and/or a related patent application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, the Office rejects claim 1-23 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite.

With respect to claim 1, the Office alleges that “performance improvement” is unclear and indefinite. By this response, Applicants have amended claim 1 to expressly state that the “anticipated performance improvement” comprises an anticipated difference in at least one execution metric for a process. As a result, Applicants respectfully request withdrawal of this rejection.

With respect to claims 3 and 8, the Office alleges that “a most responsive process” is unclear and indefinite. By this response, Applicants have amended claims 3 and 8 to expressly state that the “most responsive process” has the highest anticipated benefit. As a result, Applicants respectfully request withdrawal of this rejection.

With respect to claims 7, 16, and 21, the Office alleges that “learned benefit knowledge” is unclear and indefinite. By this response, Applicants have amended claims 7, 16, and 21 to expressly state that the “learned benefit knowledge” includes a benefit to at least one execution

metric from at least one previous allocation of resources for each process. As a result, Applicants respectfully request withdrawal of this rejection.

Further, the Office rejects claims 1-6 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 5,473,773 (Aman) in view of U.S. Patent No. 6,665,716 (Hirata). In order to maintain a proper rejection under 35 U.S.C. § 103(a), the Office must show that the proposed combination of references teaches or suggests each feature of the claimed invention. Applicants respectfully submit that the Office fails to present such a showing.

For example, with respect to claim 1, Applicants respectfully submit that the Office fails, *inter alia*, to show that Aman teaches or suggests determining a set of available resources as in claim 1. In an Advisory Action, the Office indicates that “available resource” was interpreted as “any resource that may be given to another entity that is in need of it.” Advisory Action, Continuation of 11. By this response, Applicants have amended claim 1 to expressly state that each available resource is unallocated to any process.

With further respect to claim 1, Applicants respectfully submit that the Office fails to show that Aman teaches or suggests determining an anticipated benefit for the set of available resources for each process in the set of lagging processes, the anticipated benefit for each process including an anticipated performance improvement to the process should the set of available resources be allocated as additional resources for the process as in claim 1. Initially, Applicants note that the Office recognizes that Aman does not include any teaching or suggestion for determining a set of lagging processes. See, e.g., Final Office Action, p. 4. Further, as discussed above, Aman does not include any teaching or suggestion for determining a set of available resources. For these reasons, Aman does not teach or suggest the claimed feature.

Additionally, Applicants submit that the Office fails to show that Aman teaches or suggests determining an anticipated benefit... for each process... as in claim 1. In contrast, Aman determines a net value relative to changes for both a receiver and donor. Aman, col. 3, lines 45-48. The receiver and donor are classes of work units. Aman, col. 3, lines 30-31, 44-45, Abstract. In contrast, claim 1 determines an anticipated benefit for a set of available resources for each process in the set of lagging processes. In the Advisory Action, the Office states that each process of claim 1 is mapped to each goal class in Aman. Advisory Action, Continuation of 11. However, Applicants note that the lagging processes of claim 1 are “running behind a target schedule”. It is impossible for any class in Aman to be running behind a target schedule since each class is not running. In contrast, a class in Aman defines a group of work units of a particular type. Aman, Abstract; col. 2, lines 53-67.

In light of the above, Applicants respectfully request withdrawal of the rejections of claim 1 and claims 2-6, which depend therefrom, as allegedly being unpatentable over Aman in view of Hirata.

Further, the Office rejects claims 7-10, 13-19, and 21-23 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Aman in view of U.S. Patent No. 6,076,174 (Freund). Applicants respectfully submit that the Office fails to present a sufficient showing to maintain the rejection.

For example, with respect to claim 7, Applicants respectfully submit that the Office fails, *inter alia*, to show that Aman teaches or suggests determining a set of available resources and/or determining an anticipated benefit for the set of available resources for each process based on learned benefit knowledge, each process executing on a computer system, the anticipated benefit for each process including an anticipated performance improvement to the process should the set

of available resources be allocated as additional resources for the process as in claim 7.

Applicants note that the Office relies on the same portions of Aman that were cited in rejecting similar features of claim 1. To this extent, Applicants incorporate the arguments presented above with respect to claim 1.

Further, Applicants respectfully submit that the Office fails to show that Aman teaches or suggests allocating at least some of the set of available resources to a process based on the anticipated benefits as in claim 7. Initially, Applicants note that as discussed above, Aman teaches adjusting system control data elements for classes of work units, not an individual process as in claim 7. Further, Applicants note that Aman does not include any column 25, lines 34-39, which is cited by the Office in support of the rejection.

In light of the above, Applicants respectfully request withdrawal of the rejections of claim 7 and claims 8-10 and 13-15, which depend therefrom, as allegedly being unpatentable over Aman in view of Freund.

Additionally, Applicants note that claims 16 and 21 include features similar to those discussed above with respect to claim 7. To this extent, Applicants herein incorporate the arguments presented above with respect to claim 7 for claims 16 and 21. As a result, Applicants also respectfully request withdrawal of the rejections of claim 16 and claims 17-19, which depend therefrom, and claim 21 and claims 22-23, which depend therefrom, as allegedly being unpatentable over Aman in view of Freund.

Further, the Office rejects claims 11-12 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Aman in view of Freund and further in view of Hirata. Applicants incorporate the arguments presented above with respect to claim 7, from which these claims depend, and

respectfully request withdrawal of the rejection of claims 11-12 as allegedly being unpatentable over Aman in view of Freund and further in view of Hirata for those reasons.

Further, the Office rejects claim 20 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Aman in view of Freund and further in view of U.S. Patent No. 5,996,013 (Delp). Applicants incorporate the arguments presented above with respect to claim 16, from which claim 20 depends, and respectfully request withdrawal of the rejection of claim 20 as allegedly being unpatentable over Aman in view of Freund and further in view of Delp for those reasons.

Applicants submit that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicants do not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicants do not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicants reserve the right to present such arguments in a later response should one be necessary and/or in a related patent application, either of which may seek to obtain protection for claims of a potentially broader scope.

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,

/John LaBatt/

John W. LaBatt, Reg. No. 48,301
Hoffman, Warnick & D'Alessandro LLC
75 State Street, 14th Floor
Albany, NY 12207
(518) 449-0044 - Telephone
(518) 449-0047 - Facsimile

Dated: 7 April 2008